

incorporate herein by reference the content of the Appeal Brief. As set forth above, submission of the present claims does not signify acquiescence with any outstanding rejection.

VI. Conclusion

In conclusion, Applicants submit that, in light of the foregoing remarks and enclosed documents, and in light of the recent interviews, the present case is in condition for allowance and such favorable action is respectfully requested. Should Examiner Sharareh have any questions or comments, a telephone call to the undersigned Applicants' representative is earnestly solicited.

Respectfully submitted,
Williams, Morgan & Amerson, P.C.
Customer No. 23720



Shelley P.M. Fussey, Ph.D.
Reg. No. 39,458
Agent for Applicant

10333 Richmond, Suite 1100
Houston, Texas, 77042
(713) 934-4079

Date: January 12, 2005



PTO/SB/26 (Modified)

**TERMINAL DISCLAIMER TO OBTAIN A DOUBLE PATENTING
REJECTION OVER A PRIOR PATENT**Docket No. (Optional)
3999.002383

In re Application of: Philip E. Thorpe, Sophia Ran and Rolf A. Brekken

Application No.: 09/351,149

Filed: July 12, 1999

For: CANCER TREATMENT KITS COMPRISING THERAPEUTIC CONJUGATES THAT BIND TO
AMINOPHOSPHOLIPIDS

Petitioner, Board of Regents, The University of Texas System, is the owner of the entire interest in the instant application. Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173, as shortened by any terminal disclaimer, of prior Patent No. 6,818,213 (Serial No. 09/351,598). Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Pursuant to 37 C.F.R. § 3.73, the undersigned has reviewed the evidentiary documents, specifically, the Assignment of the instant application to Board of Regents, The University of Texas System, which has been recorded at reel 010262, frame 0077, and certifies that, to the best of her knowledge and belief, title of the instant application is in the name of Assignee, Board of Regents, The University of Texas System.

For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned (whose title is supplied below) is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

January 12, 2005

Date

By: Shelley P.M. Fussey
Reg. No. 39,458
Agent for Applicants

⊗ Terminal disclaimer fee under 37 C.F.R. § 1.20(d) enclosed. If omitted, should be deducted from Williams, Morgan & Amerson, P.C. Deposit Account No. 50-0786/3999.002383.

⊗ PTO suggested wording for terminal disclaimer was:

☐ unchanged. ☒ changed (if changed, an explanation should be supplied).

Paragraph in bold added for compliance with 37 C.F.R. § 3.73

PTO/SB/26 (Modified)

01/19/2005 LWONDIM1 00000079 09351149

01 FC:1814

130.00 OP